

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
CHEEMA’S SUPERMARKET)	
)	
Plaintiff.)	
)	
v.)	Civil Action No. 17-10055-JGD
)	
UNITED STATES DEPARTMENT)	
OF AGRICULTURE,)	
)	
Defendant.)	
_____)	

JOINT STATUS REPORT AND MOTION TO AMEND THE SCHEDULING ORDER

NOW COME the parties, Cheema’s Supermarket, and the United States Department of Agriculture (“USDA”), by and through their respective counsel, and jointly submit this Status Report and Motion to Amend the Scheduling Order as follows:

1. This action seeks judicial review of the Final Agency Decision of the USDA disqualifying Cheema’s Supermarket from the Supplemental Nutritional Assistance Program (“SNAP”). Cheema’s Supermarket’s initially filed a complaint on July 21, 2016 in the First Circuit Court of Appeals, which transferred the case to this Court on January 5, 2017.
2. On May 25, 2017, Plaintiff filed an Amended Complaint (Document No. 16).
3. That same day, the Court entered an order stating that, “Defendant will file its response to the Amended Complaint within 60 days of service. Motions for summary judgment will be filed four months after the filing of the Amended Complaint, with any discovery to be completed during this period.” (Document No. 17, electronic order dated May 25, 2017).

4. On or about June 12, 2017, the undersigned Assistant U.S. Attorney assumed representation of the Defendant from former Assistant U.S. Attorney Shelby D. Wright, who had been handling the case.

5. Plaintiff did not serve its Amended Complaint until on or about July 21, 2017, making Defendant's response due September 19, 2017, according to the Court's Scheduling Order.

6. Upon review of the Amended Complaint, the undersigned Assistant U.S. Attorney contacted Plaintiff's counsel pursuant to Local Rule 7.1 to discuss Defendant's intended motion to dismiss for failure to state claim and/or motion for more definite statement. In order to promote efficiency and avoid unnecessary motion practice, counsel have agreed that Plaintiff will further amend its complaint to address any alleged deficiencies in its pleading.

7. As such, the parties jointly propose the following schedule and respectfully request that the Court's Scheduling Order (Document No. 17) be so amended:

- Plaintiff will file its Amended Complaint by Aug. 25, 2017;
- Defendant will respond to the Amended Complaint by Sept. 19, 2017, and file the Administrative Record at that time; and
- Within 10 days of filing the Administrative Record, the parties will file a joint status report regarding whether or not discovery will be necessary and, if so, a proposed schedule for discovery;
- If it is determined that discovery is not necessary, the parties jointly propose the following briefing schedule:
 - Defendant will file its motion for summary judgment by October 31, 2017;
 - Plaintiff will file its opposition to summary judgment by November 30, 2017; and
 - Defendant will file its reply brief, if any, by December 14, 2017.

Respectfully submitted,

CHEEMA'S SUPERMARKET
Plaintiff

WILLIAM D. WEINREB
Acting United States Attorney

By: /s/ John R. Bitá III
John R. Bitá III, Esq.
35 India Street - Third Floor
Boston, MA 02210
Tel: (617) 538-5407
Fax: (888) 201-8530
jrb@bitalaw.com

By: /s/ Jessica P. Driscoll
Jessica P. Driscoll, BBO No. 655394
Assistant United States Attorney
United States Attorney's Office
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3398
Jessica.Driscoll@usdoj.gov

Local Rule 7.1 Certificate

I hereby certify that this status report and motion is being filed jointly on behalf of all parties.

Date: August 15, 2017

/s/ Jessica P. Driscoll
Jessica P. Driscoll
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Date: August 15, 2017

/s/ Jessica P. Driscoll
Jessica P. Driscoll
Assistant United States Attorney